

PLANNED DEVELOPMENT PERMIT AMENDMENT

FILE NO. PDA79-014-02

LOCATION OF PROPERTY 0 Whaley Road
San Jose, CA 95135

ZONING DISTRICT A(PD) Planned Development

GENERAL PLAN DESIGNATION Residential Neighborhood

PROPOSED USE Planned Development Permit Amendment to construct carport structures (RV parking lot area) and ground-mounted arrays for the installation of solar photovoltaic panels on a 3.33-gross acre site

ENVIRONMENTAL STATUS Exempt per CEQA Guidelines Section 15303(e) Accessory Structures

OWNER The Villages Golf and Country Club
5000 Cribari Lane
San Jose, CA 95135

APPLICANT Solar Technologies
c/o James Donalson
14 Beta Court
San Ramon, CA 94583

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This Planned Development Permit Amendment allows the construction of carport structures (in an RV parking lot area) and ground-mounted arrays for the installation of solar photovoltaic panels on a 3.33-gross acre site.
2. This subject site has a designation of Residential Neighborhood on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram, which is intended for Single-Family Residences.
3. The subject site is located in the A(PD) Planned Development Zoning District in accordance with File No. PDC73-094.
4. The subject site is developed with a vacant hillside and RV storage facility, located on the west side of Whaley Drive, approximately 400 feet south of Blauer Lane.
5. Under the provisions of Section 20.100.910 of the City of San José Municipal Code a Planned Development Permit Amendment is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure on any site.

6. Under the provisions of Section 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project is to allow the construction of carport structures (RV parking lot area) and ground-mounted arrays for the installation of solar photovoltaic panels. The addition of accessory structures are considered minor and will not have a significant impact.

FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. The application is consistent with the site's Envision San Jose 2040 General Plan designation of Residential Neighborhood, in that this designation is intended for Single-Family Residences and the proposed carport structures and ground-mounted solar arrays are supportive of this designation.
2. After investigation and hearing held pursuant to Chapter 20.60 of the San José Municipal Code and to Planned Development Zoning File No. PDC73-094 General Development Standards, Area F (site) allows vehicle storage, the Director of Planning finds:
 - a. That the installation of carports are incidental to the permitted vehicle storage and the solar panels are incidental to the entire residential component of the site. Also, the Zoning does not expressly allow the solar panels, but they are allowed due to the Solar Rights Act. This permit was required to ensure that public health and safety were protected due to this sites location within a geohazard zone.
3. Finally, the Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Planned Development Permit Amendment findings (Section 20.100.940), that:
 - a. The Planned Development Permit Amendment, as issued, conforms in all respects to the Planned Development Zoning of the property, in that land uses and addition of accessory structures are being followed as discussed above.
 - b. The interrelationship between the orientation, location, mass and scale of building volumes and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that the project only involves the addition of accessory structures.
 - c. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties, as discussed above.

In accordance with the findings set forth above, a Planned Development Permit Amendment for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit Amendment shall automatically expire two years from and after the date of issuance hereof by said Director, if within such two-year period, the proposed construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit Amendment. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code.
3. **Conformance to Plans.** The development of the site shall conform to approved Planned Development Permit Amendment plans entitled, "Villages Golf and Country Club Solar Installation Association Boat and RV Storage Facility, Whaley Rd" last revised on December 22, 2015 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
4. **Building Permit.** Procurement of a Building Permit from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit Amendment incorporated by reference in this Permit in accordance with Chapter 20.100 of the San José Municipal Code.
8. **Public Works Clearance for Building Permit(s) or Map Approval.** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review

timelines and submittal instructions for Public Works permits may be found at the following:
<http://www.sanjoseca.gov/index.aspx?nid=2246>.

a. **Grading/Geology:**

- i. A grading permit may be required prior to the issuance of a Public Works Clearance.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
- iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- iv. A Geologic Hazard Clearance is required prior to environmental clearance or zoning approval.
- v. A geologic report addressing the potential hazards of fault rupture, slope instability, and erosion must be submitted to and accepted by the City Engineering Geologist prior to environmental clearance or zoning approval.

b. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures and source controls to minimize stormwater pollutant discharges.

c. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area but will not create and/or replace one acre or more of impervious surface. The project is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

d. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, PDA79-014-02, shall be printed on all plans submitted to the Building Division.
- b. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building

permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

10. **Recycling.** Scrap construction material should be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction debris from the project, including information on available haulers and processors.
11. **Building and Property Maintenance.** The developer shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
12. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
14. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
15. **Outside Storage.** Only the outdoor storage as allowed under Planned Development Permit File No. PD79-014 is permitted.
16. **Revocation, Suspension, Modification.** This Planned Development Permit Amendment may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **10th day of February 2016.**

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy